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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,847	05/29/2001	Robert Chalifour	14445-501 CIP	8081

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY  
AND POPEO, P.C.  
ONE FINANCIAL CENTER  
BOSTON, MA 02111

EXAMINER
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TURNER, SHARON L

ART UNIT	PAPER NUMBER
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1647

DATE MAILED: 10/01/2002

11

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/867,847

Applicant(s)

CHALIFOUR ET AL.

Examiner

Sharon Turner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-39 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-20, drawn to a method for preventing or treating an amyloid-related disease in a subject, classified in class 514, subclass 2, for example.
  - II. Claims 21-39, drawn to a composition comprising an antigenic amount of an all-D peptide and pharmaceutical compositions comprising the same, classified in class 424, subclass 185.1, for example.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions II and I are related as product and processes of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the processes for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process of using that product. The all-D peptide of Invention II can be in yeast-2-hybrid assays to isolate amyloid binding proteins or as an inhibitor in biochemical assays.
4. **FURTHERMORE, restriction to one of the following inventions is required under 35 U.S.C. 121:**
  - a. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 1.
  - b. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 2.

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- c. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 3.
- d. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 4.
- e. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 5.
- f. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 6.
- g. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 7.
- h. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 8.
- i. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 9.
- j. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 10.
- k. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 11.
- l. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 12.
- m. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 13.
- n. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 14.
- o. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 15.
- p. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 16.
- q. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 17.
- r. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 18.
- s. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 19.
- t. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 20.
- u. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 21.
- v. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 22.
- w. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 23.
- x. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 24.

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- y. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 25.
- z. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 26.
- aa. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 27.
- bb. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 28.
- cc. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 29.
- dd. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 30.
- ee. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 31.
- ff. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 32.
- gg. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 33.
- hh. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 34.
- ii. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 35.
- jj. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 36.
- kk. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 37.
- ll. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 38.
- mm. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 39.
- nn. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 40.
- oo. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 41.
- pp. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 42.
- qq. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 43.
- rr. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 44.
- ss. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 45.
- tt. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 46.

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- uu. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 47.
- vv. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 48.
- ww. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 49.
- xx. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 50.
- yy. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 51.
- zz. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 52.
- aaa. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 53.
- bbb. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 54.
- ccc. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 55.
- ddd. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 56.
- eee. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 57.
- fff. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 58.
- ggg. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 59.
- hhh. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 60.
- iii. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 61.
- jjj. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 62.
- kkk. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 63.
- lll. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 64.
- mmm. Claims 1-39, each in part, as the inventions pertain to SEQ ID NO: 65.

5. The inventions are distinct, each from the other because of the following reasons:

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6. Although there are no provisions under the section for "Relationship of Inventions" in M.P.E.P. § 806.05 for inventive Inventions that are directed to different products, restriction is deemed to be proper because these products appear to constitute patentably distinct inventions for the following reasons: Inventions **a-mmm** are directed to sequences that are distinct both physically and functionally, and are not required one for the other. Invention **a** requires search and consideration of SEQ ID NO: 1, which is not required by any of the other Inventions. Invention **b** requires search and consideration of SEQ ID NO: 2, which is not required by any of the other Inventions. Invention **c** requires search and consideration of SEQ ID NO: 3, which is not required by any of the other Inventions. Invention **d** requires search and consideration of SEQ ID NO: 4, which is not required by any of the other Inventions. Invention **e** requires search and consideration of SEQ ID NO: 5, which is not required by any of the other Inventions. Invention **f** requires search and consideration of SEQ ID NO: 6, which is not required by any of the other Inventions. Invention **g** requires search and consideration of SEQ ID NO: 7, which is not required by any of the other Inventions. Invention **h** requires search and consideration of SEQ ID NO: 8, which is not required by any of the other Inventions. Invention **i** requires search and consideration of SEQ ID NO: 9, which is not required by any of the other Inventions. Invention **j** requires search and consideration of SEQ ID NO: 10, which is not required by any of the other Inventions. Invention **k** requires search and consideration of SEQ ID NO: 11, which is not required by any of the other Inventions. Invention **l** requires search and consideration of SEQ ID NO: 12, which is not required by any of the other Inventions. Invention **m** requires search and consideration of SEQ ID NO: 13, which is not required by any of the other Inventions. Invention **n** requires search and consideration of SEQ ID NO: 14, which is not required by any of the other

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Inventions. Invention **o** requires search and consideration of SEQ ID NO: 15, which is not required by any of the other Inventions. Invention **p** requires search and consideration of SEQ ID NO: 16, which is not required by any of the other Inventions. Invention **q** requires search and consideration of SEQ ID NO: 17, which is not required by any of the other Inventions. Invention **r** requires search and consideration of SEQ ID NO: 18, which is not required by any of the other Inventions. Invention **s** requires search and consideration of SEQ ID NO: 19, which is not required by any of the other Inventions. Invention **t** requires search and consideration of SEQ ID NO: 20, which is not required by any of the other Inventions. Invention **u** requires search and consideration of SEQ ID NO: 21, which is not required by any of the other Inventions. Invention **v** requires search and consideration of SEQ ID NO: 22, which is not required by any of the other Inventions. Invention **w** requires search and consideration of SEQ ID NO: 23, which is not required by any of the other Inventions. Invention **x** requires search and consideration of SEQ ID NO: 24, which is not required by any of the other Inventions. Invention **y** requires search and consideration of SEQ ID NO: 25, which is not required by any of the other Inventions. Invention **z** requires search and consideration of SEQ ID NO: 26, which is not required by any of the other Inventions. Invention **aa** requires search and consideration of SEQ ID NO: 27, which is not required by any of the other Inventions. Invention **bb** requires search and consideration of SEQ ID NO: 28, which is not required by any of the other Inventions. Invention **cc** requires search and consideration of SEQ ID NO: 29, which is not required by any of the other Inventions. Invention **dd** requires search and consideration of SEQ ID NO: 30, which is not required by any of the other Inventions. Invention **ee** requires search and consideration of SEQ ID NO: 31, which is not required by any of the other Inventions. Invention **ff** requires search and consideration of SEQ ID



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NO: 32, which is not required by any of the other Inventions. Invention **gg** requires search and consideration of SEQ ID NO: 33, which is not required by any of the other Inventions. Invention **hh** requires search and consideration of SEQ ID NO: 34, which is not required by any of the other Inventions. Invention **ii** requires search and consideration of SEQ ID NO: 35, which is not required by any of the other Inventions. Invention **jj** requires search and consideration of SEQ ID NO: 36, which is not required by any of the other Inventions. Invention **kk** requires search and consideration of SEQ ID NO: 37, which is not required by any of the other Inventions. Invention **ll** requires search and consideration of SEQ ID NO: 38, which is not required by any of the other Inventions. Invention **mm** requires search and consideration of SEQ ID NO: 39, which is not required by any of the other Inventions. Invention **nn** requires search and consideration of SEQ ID NO: 40, which is not required by any of the other Inventions. Invention **oo** requires search and consideration of SEQ ID NO: 41, which is not required by any of the other Inventions. Invention **pp** requires search and consideration of SEQ ID NO: 42, which is not required by any of the other Inventions. Invention **qq** requires search and consideration of SEQ ID NO: 43, which is not required by any of the other Inventions. Invention **rr** requires search and consideration of SEQ ID NO: 44, which is not required by any of the other Inventions. Invention **ss** requires search and consideration of SEQ ID NO: 45, which is not required by any of the other Inventions. Invention **tt** requires search and consideration of SEQ ID NO: 46, which is not required by any of the other Inventions. Invention **uu** requires search and consideration of SEQ ID NO: 47, which is not required by any of the other Inventions. Invention **vv** requires search and consideration of SEQ ID NO: 48, which is not required by any of the other Inventions. Invention **ww** requires search and consideration of SEQ ID NO: 49, which is not required by any

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of the other Inventions. Invention **xx** requires search and consideration of SEQ ID NO: 50, which is not required by any of the other Inventions. Invention **yy** requires search and consideration of SEQ ID NO: 51, which is not required by any of the other Inventions. Invention **zz** requires search and consideration of SEQ ID NO: 52, which is not required by any of the other Inventions. Invention **aaa** requires search and consideration of SEQ ID NO: 53, which is not required by any of the other Inventions. Invention **bbb** requires search and consideration of SEQ ID NO: 54, which is not required by any of the other Inventions. Invention **ccc** requires search and consideration of SEQ ID NO: 55, which is not required by any of the other Inventions. Invention **ddd** requires search and consideration of SEQ ID NO: 56, which is not required by any of the other Inventions. Invention **eee** requires search and consideration of SEQ ID NO: 57, which is not required by any of the other Inventions. Invention **fff** requires search and consideration of SEQ ID NO: 58, which is not required by any of the other Inventions. Invention **ggg** requires search and consideration of SEQ ID NO: 59, which is not required by any of the other Inventions. Invention **hhh** requires search and consideration of SEQ ID NO: 60, which is not required by any of the other Inventions. Invention **iii** requires search and consideration of SEQ ID NO: 61, which is not required by any of the other Inventions. Invention **jjj** requires search and consideration of SEQ ID NO: 62, which is not required by any of the other Inventions. Invention **kkk** requires search and consideration of SEQ ID NO: 63, which is not required by any of the other Inventions. Invention **lll** requires search and consideration of SEQ ID NO: 64, which is not required by any of the other Inventions. Invention **mmm** requires search and consideration of SEQ ID NO: 65, which is not required by any of the other Inventions. Each sequence requires a separate search of the literature and sequence databases. A search and

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examination of an Invention as it pertains to all sequences would therefore present the examiner with an undue search burden.

**7. Applicant is advised that this is not a requirement to elect a species. Rather, this is a second restriction requirement superimposed upon the requirement to elect one group from I-II. In order to be fully responsive, Applicant must elect one group from I-II and one group from a-mmm.**

8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, separate search requirements, and/or different classification, restriction for examination purposes as indicated is proper.

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Turner whose telephone number is 703-308-0056. The examiner can normally be reached on Monday through Friday, 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, Ph.D. can be reached on 703-308-4623. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications. The fax phone numbers for the customer service center is 703-872-9305.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

CJN  
September 30, 2002

*Gary L. Kunz*  
**GARY KUNZ**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**